



# MASA

Maryland Ambulatory  
Surgery Association

## **CON Modernization Task Force**

Monday, October 1, 2018

The Maryland Ambulatory Surgery Association (MASA), which is comprised of 76 ambulatory surgery centers in Maryland, is pleased to provide these written comments to the Certificate of Need Modernization Task Force.

Maryland ambulatory surgery centers (ASCs) are integral to the delivery of cost-effective quality health care in the State. Currently, there are approximately 325 Medicare-certified ASCs in Maryland providing essential surgical services to our citizens. The most common procedures performed in ASCs include colonoscopies, cataract surgery, endoscopies, orthopedic and pain management procedures.

According to a recent University of California Berkeley study, ASCs save Medicare \$2.3 billion each year on just the 120 most common procedures that they perform on Medicare beneficiaries. According to the same study, if the ASC share within the Medicare system increased by only 3%, the savings could exceed \$57.6 billion over 10 years.

These facilities are responsible for significant health care cost savings to our State. In 2015, Maryland ASCs saved Medicare:

- \$23.6 million on cataract procedures
- \$6 million on upper GI procedures
- \$4.3 million on cystoscopy procedures

The following recommendations from MASA support the guiding principles of the CON Program.

### **Eliminate capital expenditure threshold defining the need for CON**

The majority of ASCs in the State are privately developed without taxpayer dollars. The only exception may be a hospital owned ASC, and most of them are joint ventures. Surgery centers should be free to develop their facilities with their own resources and invest in innovation without unnecessary capital expenditure thresholds being applied.

### **Eliminate the charity care requirements for ASCs**

Charity care is driven by the providers caring for their patients in out-patient settings. ASCs should not be held accountable for the surgeon's decision as to whether he/she provides health care to indigent patients. To offer services on a charitable level, the surgeon, PCP and lab must be willing to assume care for the patient prior to scheduling the patient at the ASC.

**Reduce the burden of complying with regulatory requirements by eliminating the duplication of regulatory effort between the MHCC and OHCQ regarding quality of care.**

Currently state licensure requires accreditation and Medicare certification of an ambulatory surgery center. The regulations set forth by accreditation agencies such as the Joint Commission are no less stringent than those demanded of the hospitals. In addition, the OHCQ, is responsible for surveying ASCs using CMS's Conditions for Coverage, including Life Safety Code, Infection Control and our Quality Assessment and Performance Improvement programs. Our licensed ASCs are also responsible for submitting quality data to both state and federal agencies.

**Eliminate the CON amendment process for expansion from one to two operating rooms, and those desiring to build a two-operating room ASC.**

As opposed to the other types of facilities we have discussed, the large volume of of ASCs in Maryland is a direct result of the CON exemption for one room operating centers. In certain cases the exemption has encouraged some groups to open multiple one room ASCs as opposed to streamlining their operations into larger facilities.

The previous instituted amendment process for expansion or relocation of ASCs will result in increased efficiency, the ability to add additional specialties and allow facilities to meet the demands of the payers to move more procedures to the appropriate setting. Efficiency should be defined by the owner of the ASC, not the number of surgical cases performed in an ASC.

Innovation and its associated costs are often adopted faster in a setting funded by private dollars, where the physician can easily see the benefits to the patient, his/her practice and the ASC. Eliminating CON process for two or less operating rooms and the POSC category will promote the type of "thinking outside the box" that will support the guiding principles of the CON Program.

**"Interested Party Status"**

Given the various ownership models in our ambulatory surgery centers, MASA feels it is appropriate for ASCS to have "interested party status" similar to that of the hospitals.